IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No. 24642 OF 2005

Date:21.07.2006

BETWEEN:

D. Husseni,

…. PETITIONER

And

1. The Assistant Registrar/Recovery Officer, A.P. Cooperative Housing Societies Federation Ltd., Allagadda, Kurnool District, and others.

…. RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to case No.237/04-05 on the file of the first respondent and consequently quash the certificate issued under Section 71(2) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') dated 2.07.2004 by the first respondent and the proceedings in E.P.131/04-05 initiated by the second respondent.

It seems, the petitioner was sanctioned a housing loan of Rs.75,000/-, and according to him, he paid Rs.45,000/-. Thereafter, he paid the entire amount except a part of the interest. According to the petitioner, for realization of the said amount the third respondent-Society approached the first respondent and obtained a certificate under Section 71(2) of the Act for a sum of Rs.1,47,288/-. Thereafter, E.P. proceedings were taken up in E.P.No.131/04-05.

It is the case of the petitioner that the first and second respondents have no authority under the law for issuing a certificate under Section 71(2) of the Act. Further, the amounts mentioned in the said certificate were not properly calculated and the amounts paid by the petitioner were not given due consideration. Therefore, the impugned certificate and the consequential proceedings are bad in law.

Sri K. Srikant Reddy, learned counsel for the respondent contended that under Section 71 of the Act, the first and the

second respondents are entitled to take up the issue, and issue certificate as required under section 71 (2) of the Act. In fact, such a certificate was issued, and the same attained finality, and this writ petition is filed at the stage of execution of proceedings in E.P.No.131/04-05.

Heard both sides.

Section 71(1) of the Act contemplates that notwithstanding anything in this Act or in any other law for the time being in force and without prejudice to any other mode of recovery which is being taken or may be taken, the Registrar may, on the application made by a society or financing bank or federal society as the case may be, for the recovery of arrears of any sum advanced to any of its members can take up the issue, and issue a certificate as contemplated under Section 71(2) of the Act. Therefore, the question of authorities not vested with the jurisdiction does not arise.

The second contention of the learned counsel for the petitioner that while issuing certificate under Section 71(2) of the Act the authorities have not taken into consideration the various amounts paid by the petitioner periodically and have come to a wrong conclusion, cannot be gone into at this stage in these proceedings. In fact, against the certificate issued under Section 71(2) of the act, the petitioner has an effective alternative remedy by way of filing an appeal before the A.P. Cooperative Tribunal under Section 76 of the Act.

In view of the above, the Writ Petition is devoid of merit and is liable to be dismissed. However, this order will not preclude the petitioner from availing the alternative remedy by way of filing an appeal before the appropriate Tribunal, and work

out his remedies. If such an appeal is filed by the petitioner the same shall be entertained by the Tribunal without taking any objection as to limitation.

Accordingly, the Writ Petition is dismissed subject to above direction. No costs.

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(C.V. Ramulu, J.)

21st July, 2006
Js.